



## GUIDANCE DOCUMENT FOR INSOLVENCY PLAN

### PURPOSE

The purpose of this Guidance Document is to establish the requirements of the CCOs' written Insolvency Plan ("Plan") which must identify the procedures, activities, and tasks that must be carried out and completed in order to ensure that Members are protected and continue to receive care in the event a CCO or one of its Major Risk Accepting Entities becomes insolvent.

### APPLICABILITY

This policy applies to all CCOs contracted with OHA.

### CONTENTS

PURPOSE .....	1
APPLICABILITY .....	1
REQUIREMENT .....	1
DEFINITIONS.....	2
OBJECTIVES OF INSOLVENCY PLAN; ASSUMPTION OF TIMING .....	2
CONTENT OF INSOLVENCY PLANS.....	3
Key Staff .....	3
Required Processes/Procedures .....	3
1) Process for transferring high-needs members – .....	3
2) Records Retention – .....	4
3) Communication Plan – .....	4
4) Insolvency of Major Risk Accepting Entities – .....	5
5) Optional Template – .....	5
OHA OVERSIGHT. ....	5

### REQUIREMENT

Pursuant to OAR 410-141-5360, CCOs are required to have written policies and procedures to ensure that if insolvency occurs, Members and their clinical and all other related records are transitioned together to other CCOs or providers with minimal disruption. [https://oregon.public.law/rules/oar\\_410-141-5360](https://oregon.public.law/rules/oar_410-141-5360)



Under Section 1, Paragraph d, Exhibit L of the Medicaid Contract, CCOs must submit their insolvency plans by August 31 of every Contract Year.

d. As part of its proof of financial responsibility, Contractor shall provide assurance satisfactory to OHA that Contractor's provisions against the risk of insolvency are adequate to ensure Contractor's compliance with the requirements of this Contract.

(1) Contractor shall develop and maintain policies and procedures as described in OAR 410-141-5360 to ensure that, in the event of Contractor's insolvency, Members and related Clinical Records are transitioned to other CCOs or Providers with minimal disruption ("Insolvency Plan"). OHA will provide Contractor with a Guidance Document to assist in the development of its Insolvency Plan. Such Guidance Document is located on the CCO Contract Forms Website.

(2) Contractor shall submit its Insolvency Plan to OHA for review and approval as follows: (i) by August 31 of each Contract Year; (ii) upon any material change to such Plan; and (iii) within five Business Days of request, as made by OHA from time to time. Changes in Contractor's Insolvency Plan shall not be implemented until approved in writing by OHA. If no changes have been made to Contractor's Insolvency Plan since last approved by OHA, Contractor may, for its annual Insolvency Plan submission, submit to OHA, via Administrative Notice, an Attestation stating that no changes have been made. OHA will notify Contractor within thirty (30) days from the due date, or within thirty (30) days from the received date if after the due date, of the approval status of its Insolvency Plan. OHA will notify Contractor within the same period if additional time is needed for review. In the event that OHA does not approve Contractor's Insolvency Plan, Contractor shall follow the process set forth in Ex. D, Sec. 5 to this Contract.

<https://www.oregon.gov/oha/hsd/ohp/pages/cco-contract-forms.aspx>

This Guidance Document therefore outlines the requirements for the CCOs' Insolvency Plans.

## DEFINITIONS

**Major Risk Accepting Entities** means a risk accepting entity that meets Category 1 under the MLR instructions: *A sub-capitated entity receives a total of 50% or more of the CCO's Net Premiums (Line 2 of the Exhibit L6 OHP Report).*

**Insolvency Plan** and **Plan** each means a written plan developed by or on behalf of, and adopted by, a CCO that includes all the policies and procedures necessary to transition the CCO's Members, their medical records, and all other relevant documents to a new CCO, OHA FFS, or another similar organization in a manner that ensures the continuation of, and protects against any gaps in, Member care in the event of insolvency by the CCO or one of its Major Risk Accepting Entities.

## OBJECTIVES OF INSOLVENCY PLAN; ASSUMPTION OF TIMING

The primary objective of the Insolvency Plan is the protection of Members. This means that CCOs must safeguard against any disruption in Member care. Accordingly, communication with Members, Providers, and OHA is a critical element of all CCO Insolvency Plans.



The secondary objective of the Insolvency Plan is to facilitate a smooth transition. This means that every Insolvency Plan must consist of policies and procedures that identify: (a) the tasks necessary for transitioning CCO Members, the Member clinical records, and all other related Member and administrative documentation to other CCOs or Providers in a manner that causes minimal disruption to Member care and the State's integrated and coordinated care delivery system; and (b) the personnel or titles of personnel required to carry out those tasks and the qualifications that make those individuals or qualifications (or both) appropriate for fulfilling the assigned tasks. In addition, the Insolvency Plan must be based on the assumption that insolvency will occur mid-year and that the transition of Members and the wind-down or close-out of the Provider Network will also occur mid-year.

## CONTENT OF INSOLVENCY PLANS

Based on the objectives, all Insolvency Plans must include, at a minimum, the following information. CCO submissions will be evaluated for completeness and must include all criteria referenced below.

### Key Staff

The Insolvency Plan must identify one individual (or job title) who shall be the authorized representative who will serve as the CCO's insolvency coordinator and also serve as the single point of contact for OHA during the wind-down of the CCO. The Insolvency Plan must also designate:

- a. Key staff positions and the specific list of tasks for which they have oversight and close-out responsibility.,
- b. The name(s) and contact information for the individual or staff position(s) that has administrative control of important digital systems such as bank account access, payroll system, website access, Member records, email access, information regarding the CCO Provider Network, etc.
- c. The name(s) and contact information for individual and/or staff position(s) that have access to the CCOs physical facilities, tangible/paper files, and other Member information.

### Required Processes/Procedures

The Insolvency Plan must include procedures for carrying out and completing the following tasks:

#### 1) Process for transferring high-needs members –

The Insolvency Plan must detail the CCO's process:

- (a) The following Members who: (i) have high-needs for Care Coordination or other high level coordination, (ii) are chronically ill, or have high-risk physical or behavioral health care needs, (iii) are in week 36 of their pregnancies, and (iv) hospitalized or located in a SRTF or residential treatment setting
- (b) **Transferring records** – The Insolvency Plan must detail the CCO process that will be followed for:
  - i. Collecting and transferring all relevant Member records, approvals, and other care data, such as: Outstanding claims, approved health-related services, program exemptions approved;

- ii. Collecting and transferring information regarding the CCO's current contracts. Including contract provider panel, leases, service agreements, software licenses that the CCO uses.
- iii. Ensuring Member records follow the Member to their new CCO or to OHA FFS and who will be responsible for ensuring such coordinated transfer (e.g. name or job title of the responsible individual along with their telephone number and email address; and
- iv. Who will be responsible transferring any records to OHA relating to data that is required to be reported to OHA under the CCO contracts;

## 2) Records Retention –

The Insolvency Plan must detail the CCO process to assure all records are not destroyed:

- a) What is the backup process for the CCO including frequency of back-up.
- b) Whether records are kept with a third-party service or at an on-premise server.
  - i. Who has administrative access to the system.
  - ii. If on-premise where are the servers located and who has physical access

## 3) Communication Plan –

The communication plan must identify who needs to be informed of what, when, and how. Following receivership of a CCO the following communication must be sent out that will achieve:

- a) Members must be provided with ample written notice of the circumstances and the CCO's plan to transition each Member to a new CCO or OHA FFS Members. The written notice must also identify (i) the names and/or titles of the individuals who can answer questions about the situation and the transition plan as well as their contact information which shall include their phone numbers, email addresses, and hours of availability; (ii) any of the URLs of websites that include FAQs, identify helplines, and any other information that will assist Members in having their concerns and questions addressed promptly; (iii) where Member clinical and other relevant records will be sent; (iv) how, where and when Members may access/receive copies of their clinical and other relevant records; (v) the status of then-scheduled appointments and/or procedures, and (vi) how Members can access care if needed prior to OHA sending notice of updated enrollment information.
- b) Providers and Subcontractors must be provided with ample written notice of the CCO's circumstances and the CCO's plan. The written notice must also advise Providers and Subcontractors of the following information: (i) the names and/or titles and contact information of the individuals who can answer questions about the situation and the CCO's transition plan. Contact information must include phone numbers, email addresses, and hours of availability; (ii) any of the URLs of websites that include FAQs, identify helplines, and any other information that will assist Providers in having their concerns and questions addressed promptly; (iii) the CCO's expectation for continued performance in providing services to Members who at the time of notice have appointments, assessments, evaluations, and procedures scheduled with a Network Provider and/or Subcontractors; and (iv) if known, anticipated timeline for the CCO winding down operations, inclusive of settling all claims and payment of fees. If the foregoing information is not known, then the timeframe in which the CCO will send a



follow up communication about next steps; and (iv) any other information Providers and Subcontractors may need to know in order to fulfill their obligations to CCO's Members.

- c) Staff must be contacted regarding the insolvency and the cease all record destruction.

To achieve these requirements the Insolvency Plan should explain how the CCO's systems can be used to achieve these requirements.

- How to access the CCO's information regarding the best way to contact members, providers and subcontractors.
- How to access the systems regarding preferred communication channels to send written notice.
- What position(s) would be responsible for responding to member, provider, and subcontractor questions.
- How to get access to key URLs, logins, and accounts.
- How to send a company-wide communication.

#### 4) Insolvency of Major Risk Accepting Entities –

The CCO's Insolvency Plan must include policies and procedures in the event of one or more of their major Risk-Accepting Entities becomes insolvent. The CCO should indicate if the Insolvency plan would be identical due to the nature of the contractual arrangement.

#### 5) Optional Template –

An optional template has been provided to the CCOs to provide this information in a simple and easy to write format. CCOs can choose to use the template as a guide or use a different format as long as it provides the information in an easily useable format.

### OHA OVERSIGHT

- a. The Insolvency Plan must be submitted to OHA by no later than August 31 of every Contract Year, upon a CCO's material change to its Plan, or within five Business Days of request by OHA. Any updates to the Plan must be submitted in redlined format showing the changes that have been made since the CCO last submitted its Plan to OHA for review and approval. In the event a CCO has not updated its Insolvency Plan since it was last submitted for review, the CCO may submit an attestation so stating in accordance with Ex. L, Sec. 1, Para. d, Sub. Para. (2)
- b. OHA will review the Insolvency Plan to ensure it is comprehensive and meets the requirements of this Policy, the Contract, and the applicable Oregon Administrative Rules. OHA will review the plans within 30 days to determine if the document meets the requirement of this Guidance Document.
- c. OHA shall have the right to request, via Administrative Notice, that a CCO make a mid-year revision of an Insolvency Plan if such CCO experiences significant change in circumstances that could affect the financial health of the CCO, as determined by OHA in its reasonable



discretion. This includes, but is not limited to, a large increase in Members, large decrease in Members, the insolvency of another CCO, a significant change in or new concerns about a CCO's executive leadership or financial circumstances, declaration of public health emergency, or declaration of a national disaster.